

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**RICHARD C. NICHOLSON,**

**Plaintiff,**

**vs.**

**MARY E. PETERS, Sec’y of Transp.,**

**Defendant.**

) **Case No. 1:07 CV 2149**

)

) **Judge Dan Aaron Polster**

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) **MEMORANDUM OF OPINION**

) **AND ORDER**

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On July 18, 2007, Plaintiff Richard C. Nicholson filed a complaint against his former employer, the Federal Aviation Administration (“FAA”). The complaint alleged that the FAA discriminated against him based on his race and age, and retaliated against him for exercising his EEO rights, when it refused to change the designation on his credentials – eight years after he retired – and when it failed to pay him the proper monthly pension amount – even though he had been receiving that amount for years.

On November 19, 2007, Defendant Mary E. Peters, Secretary of Transportation, filed a motion to dismiss, arguing that the complaint should be dismissed for failure to exhaust administrative remedies.

On January 18, 2008, the Court issued a show cause order informing Nicholson of its inclination to grant the motion to dismiss for failure to exhaust administrative remedies and requiring Nicholson to file a brief explaining why the Court should not do so.

On January 31, 2008, Nicholson filed a response brief which stated that “the Court went to great pains to show that no discrimination against Mr. Nicholson had occurred” and “[s]uch pains were not necessary for an Order that simply found a failure to exhaust administrative remedies.” *ECF No. 8*, at 1. In fact, the Court thoroughly explained the basis for its conclusion that Nicholson had failed to exhaust his administrative remedies, citing the administrative record. Nicholson, meanwhile, devoted his entire response brief to a discussion of the merits of his claims and completely disregarded the central issue, his failure to exhaust the administrative remedies. Because Nicholson did not explain why he failed to exhaust the administrative remedies when the Court gave him an opportunity to do so, the complaint is **DISMISSED** for reasons set forth in detail in the Court’s January 18, 2008 Show Cause Order. *See ECF No. 7.*

**IT IS SO ORDERED.**

/s/Dan Aaron Polster    February 1, 2008

**Dan Aaron Polster**  
**United States District Judge**